

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EAGLE EYE PAINTING, LLC,

Plaintiffs,

Case No. 07-12678

vs.

HON. GEORGE CARAM STEEH

DEP'T OF HOUSING AND
URBAN DEVELOPMENT
(HUD), and ST. CLAIR
CONSTRUCTION CO.,

Defendants.

_____ /

ORDER GRANTING DEFENDANT HUD'S MOTION TO DISMISS [DOC. 10]

This matter is before the Court on defendant Department of Housing and Urban Development's ("HUD") motion to dismiss complaint. Plaintiff has not responded to the motion to dismiss. As an agency of the United States, HUD is immune from suit except as it consents to be sued by a waiver of sovereign immunity. Plaintiff has not pled any waiver of sovereign immunity in this case. If Congress has not waived the federal government's sovereign immunity for suit, the court lacks subject matter jurisdiction and dismissal is required. United States v. Nordic Village, Inc., 503 U.S. 30, 33-34 (1992); Clay v. United States, 199 F.3d 876, 879-80 (6th Cir. 1999).

In addition, plaintiff's painting contract was with defendant St. Clair Construction Company. Plaintiff does not seek any relief from HUD, nor does it allege any contract with HUD, any statutory benefit, or any allegedly tortious behavior by HUD. Plaintiff has failed to state a claim upon which relief may be granted against HUD. Fed. R. Civ. P. 12(b)(6).

For the two reasons stated, HUD's motion to dismiss the complaint against it is
GRANTED.

Dated: October 30, 2007

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on
October 30, 2007, by electronic and/or ordinary mail.

s/Josephine Chaffee
Deputy Clerk